IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 20981 of 2003

Between:

B.Malleswari W/o Late B.Venkateswarlu
R/o D.No.30-578,Gandhinagar, Nandyal, Kurnool Dist.

..... PETITIONER

AND

1 The A.P.S.,R.T.C.,rep.by its Chairman & Managing Director, Musheerabad, Hyderabad.
2 The A.P.S.R.T.C.,rep.by its Depot Manager, Nandyal Depot, Nandyal, Kurnool Dist.
3 The Regional Manager, A.P.S.R.T.C.,Kurnool Kurnool Dist.,

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents more particularly action of the 3rd respondent in issuing proceedings No.E2/604/(19)/2002-RM.Q.,dated 7-8-2003 rejecting the claim of the petitioner for compassionate appointment to any suitable post as per her educational qualifications as illegal, arbitrary, and in violative of ARts.14,16 and 21 of the Constitution of India and consequently direct the respondents to appoint the petitioner in the suitable post on compassionate grounds.

Counsel for the Petitioner: MR.KARNAMRAMESH

Counsel for the Respondents: MR.P.VINAYAKA SWAMY SC FOR APSRTC

The Court made the following:

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ORDER:

The petitioner herein is the wife of an employee with the respondent Corporation who died in harness filed this writ petition, inter alia, to declare that the action of the respondent No.3 in issuing proceedings dated 07-08-2003 rejecting her claim, for compassionate appointment in any suitable post as per her educational qualifications, as illegal.

The case of the petitioner is that she belongs to Scheduled Caste community and she passed IX class. Her husband late
B. Venkateswarlu, who was a Driver with E.No.402049, attached to second respondent-depot, died in harness on 12-09-1999, leaving behind herself, her mother-in-law and two small children.

The petitioner's claim is for appointment on compassionate grounds under the Bread Winner Scheme in the respondents Corporation. Earlier, she filed a Writ Petition No.19348 of 2002 challenging the rejection of her claim under proceedings dated
19-08-2002, in pursuance of her application dated 11-07-2002, with a request to consider her case and to appoint her in the post of Conductor Grade-II. The said orders were virtually confirmed in appeal by a Division Bench in W.A.No.259 of 2003. Wherein this Court as per orders dated 26-06-2003 directed that her case be reconsidered in the light of the policy and subject to availability of posts. Subsequently, once again she approached the authorities and pointed out that there exist various posts. However, there was ban on direct recruitment, vide circular dated 30-07-2003. In spite of the direction given by this Court, and also the demands made by petitioner, even though the petitioner is entitled for such consideration, the respondents did not consider her case.

The main grievance of the petitioner is that her case has not been properly considered and ultimately, under the impugned order dated 07-08-2003, her case was rejected once again on the same grounds. Hence, the present writ petition.

Contesting the claim of the petitioner, the respondents filed counter-affidavit, inter alia, reiterating the very same reasons as shown in the impugned order and stating that having regard to the terminal benefits given to her including the pension etc., question of considering her case does not arise.

Heard Sri Karanam Ramesh, learned counsel appearing for the petitioner and Sri P.Vinayaka Swamy, Standing Counsel appearing for the respondents Corporation.

Having considered the respective submissions and also on perusal of material, the short point to consider is as to whether the petitioner would be entitled to any such compassionate appointment as claimed by her.

There is no dispute in regard to aforesaid chequered events, that the petitioner's husband died in harness and subsequently she has been making claim for compassionate appointment as she belongs to the Scheduled Caste community and that she passed IX class examination. In view of the same she has been claiming that she may be appointed in any suitable post. There is also no dispute in regard to the direction given by this Court earlier including the Division Bench in W.A.No.259 of 2003 wherein this Court reiterated to reconsider the claim of the petitioner in respect of similar objections raised.

In support of his contention the learned counsel for the petitioner placed reliance on the decision of a Division Bench of this Court in ***A.P.S.R.T.C. AND ANOTHER v. SMT.ABIDHA KHANAM*** wherein considering such a scheme with the very same Corporation this Court held as follows:

> "SERVICE LAW – Scheme of compassionate appointment – APSRTC – Appointment as Sweeper – Appointment on compassionate ground cannot be denied on the ground of there being a ban on recruitment to posts of Sweepers and Attenders – Such an appointment is an exception to general rule of recruitment – No averment that there is no post available – No additional financial liability – Sanctioned posts available – Work of Sweeper exists – Direction in writ petition to consider the case of petitioner, wife of the deceased employee, for the post of Sweeper by obtaining permission from Government, if necessary – Sustainable".

In view of the fact that in the present case, the petitioner sought appointment on compassionate grounds like in the case of above judgment, and that it is not stated by the respondents that there is no post, the rejection of the petitioner's case on the ground that there is ban on direct recruitment cannot be sustained. It is needless to mention that the impugned orders, apart from referring to the chequered events, reiterated the fact that there was ban on direct recruitment system and that the petitioner's husband died in the month of September, 1999 and that the period of five years lapsed and no job was provided.

Having regard to the earlier directions given by this Court and also the principles laid down in the aforesaid decision such objections are only sustainable and cannot be upheld. Hence, there is absolutely no justification for rejecting the claim of the petitioner.

In the circumstances, the writ petition is allowed. The respondents are directed to consider the petitioner's case for appointment on compassionate ground and pass orders within a period of one month from the date of receipt of a copy of this order. No order as to costs.

24-06-2005

LSK

To

1 The Chairman & Managing Director, A.P.S.,R.T.C., Musheerabad, Hyderabad.
2 The Depot Manager, Nandyal Depot, A.P.S.R.T.C., Nandyal, Kurnool Dist.
3 The Regional Manager, A.P.S.R.T.C.,Kurnool Kurnool Dist.,

4 Two C.D. copies.